Chapter 4.5
Division of Workers' Compensation
Subchapter 1
Administrative Director-Administrative Rules

Text of Modified Regulations

Note: The original regulatory language is underlined. Changes initially proposed to the regulatory text in December 1998 are illustrated as follows:

Additions to the original regulatory text are double underlined.
Deletions from the original regulatory text are shown in ~~strikeout type~~.

Changes proposed in this text in January 1999 are illustrated as follows:

Additions to the regulatory text are shown in wave underline.
Deletions from the regulatory text are shown in ~~double strikeout type~~.

Changes currently proposed in this text as illustrated as follows:

Additions to the regulatory text are shown in dash underline.
Deletions from the regulatory text are shown in ~~*italic strikeout*~~ type.

Article 1.1
Workers' Compensation Information System

9700. Authority ~~and Operative Date~~

This article is adopted to implement the Workers' Compensation Information System mandated by Sections 138.6 and 138.7 of the Labor Code. ~~This Article shall be operative January 1, 1999.~~

Authority: Sections 133, 138.6 138.7 and 5307.3, Labor Code.
Reference: Section 138.6, 138.7, Labor Code.

9701. Definitions

The following definitions apply in this article:

(a) Claim. An injury as defined in Division 4 of the Labor Code, occurring on or after September 1, 1999, ~~*July 1, 1999*~~, that has resulted in the receipt of one or more of the following by a claims administrator:

(1) Employer's Report of Occupational Injury or Illness, as required by Title 8, California Code of Regulations §§ 14004-14005.

(2) Doctor's First Report of Occupational Injury or Illness, as required by Title 8, California Code of Regulations §§ 14006-14007.

(3) Application for Adjudication filed with the Workers' Compensation Appeals Board under Labor Code § 5500 and Title 8, California Code of Regulations § 10408.

(4) Any information indicating that the injury requires medical treatment by a physician.

~~(a)~~ (b) Claims Administrator. A self-administered insurer providing security for the payment of compensation required by Divisions 4 and 4.5 of the Labor Code, a self-administered self-insured employer, or a third-party claims administrator for a self-insured employer, insurer, legally uninsured employer, or joint powers authority.

~~(b)~~ (c) Data Elements. Information identified by data number (DN) and defined in the dictionary of the EDI Implementation Guide, Release 1, or the EDI Implementation Guide, Release 2, or the EDI Medical Bill/Payment Report Implementation Guide, Release 1, Beta. ~~, or successor EDI implementation guides published by the International Association of Industrial Accident Boards and Commissions, relating to workers' compensation claims.~~ Data elements set forth in Section 9702 ~~are mandatory and~~ must be transmitted on all claims, where applicable, as indicated in Section 9702. The data elements set forth in the EDI Implementation Guides that are not enumerated in Section 9702 are optional and may, but need not be, submitted on any or all claims.

(d) Electronic Data Interchange. ("EDI"). A computer to computer exchange of data or information in a standardized format acceptable to the Administrative Director.

~~(c)~~ ~~(d)~~ (e) EDI Implementation Guide, Release 1. EDI Implementation Guide for First, Subsequent, Acknowledgment Detail, Header & Trailer Records, Release I, ~~published~~ issued August 9, 1995, by the International Association of Industrial Accident Boards and Commissions, which is hereby incorporated by reference.

~~(d)~~ ~~(e)~~ (f) EDI Implementation Guide, Release 2. EDI Implementation Guide for First, Subsequent, Acknowledgment Detail, Header & Trailer Records, Release 2 ~~Beta, August 25, 1997~~, issued November 30, 1998, by the International Association of Industrial Accident Boards and Commissions, which is hereby incorporated by reference.

~~(e)~~ ~~(f)~~ (g) EDI Implementation Guide for Medical Bill/Payment Report, Release 1 Beta, issued April 28, 1999, ~~*EDI Medical Bill/Payment Report Implementation Guide, Release 1. EDI Implementation Guide for Medical Bill/Payment Report, Release 1, issued March 4, 1996,*~~ by the International Association of Industrial Accident Boards and Commissions, which is hereby incorporated by reference.

(h) Indemnity Benefits. Payments conferred for any of the following: temporary disability indemnity, permanent disability indemnity, death benefits, vocational rehabilitation maintenance allowance, and employer-paid salary in lieu of compensation.

~~(f)~~ ~~(g)~~ ~~*(h)*~~ (i) Individually Identifiable Information. Any data concerning an injury or claim that is linked to a uniquely identifiable employee, employer, claims administrator, or any other person or entity.

~~*(i)*~~ (j) Inpatient Hospitalization. Admission to a health facility for the purpose of receiving inpatient services. A person is considered an inpatient when he or she is formally admitted as an inpatient with the expectation that he or she will remain at least overnight and occupy a bed, even if it later develops that such person can be discharged or is transferred to another facility and does not actually remain overnight.

~~*(j)*~~ (k) International Association of Industrial Accident Boards and Commissions ("IAIABC"). A professional association of workers' compensation specialists, located at 1201 Wakarusa Drive, C-3, Lawrence, Kansas 66049, which is, in addition to other activities, engaged in the production and publication of EDI standards for filing workers' compensation information. Note: IAIABC asserts ownership of such EDI standards which are published in various ways and include Implementation Guides with instructions on their use, technical and business specifications and coding information to permit the transfer of data between regulatory bodies and regulated entities in a uniform and consistent manner. Users of these standards are advised to contact IAIABC regarding any applicable licensing arrangements.

~~(g)~~ ~~(h)~~ ~~*(k)*~~ (l) ~~Trading Partner Agreement~~ EDI Trading Partner Profile. ~~The agreement between the Administrative Director and a claims administrator~~ The form,

required to be completed by the claims administrator, which sets forth the conditions under which the trading of data elements is to take place., ~~including any variance in the timelines set forth in section 9702 for submitting the minimum data set.~~ The EDI Trading Partner Profile [Form DWC WCIS TP01 ~~(New 12/98)~~ *(Revised 1/99)* (Revised 4/99), entitled "Electronic Data Interchange Trading Partner Profile"], is hereby incorporated by reference.

~~(h)~~ ~~(i)~~ *(l)* (m) WCIS. The Workers' Compensation Information System established pursuant to sections 138.6 and 138.7 of the Labor Code.

Authority: Sections 133, 138.6, 138.7 and 5307.3, Labor Code.
Reference: Section 138.6 and 138.7, 6409, 6409.1, Labor Code.

9702. Electronic Data Reporting

(a) Each c~~C~~laims administrator~~s may, on or after the operative data of this article and the execution of a trading partner agreement, shall submit to the Administrative Director an EDI Trading Profile and~~ shall transmit data elements, by electronic data interchange, to the WCIS by the dates specified in this section. Each ~~All~~ claims administrator~~s~~ shall, at a minimum, provide complete, valid, accurate data for the data elements set forth in this section ~~by the dates specified in this section, unless a later date is specified in the claims administrator's trading partner agreement~~. Each transmission of data elements shall include appropriate header and trailer records as set forth in the applicable EDI Implementation Guide.

(1) The Administrative Director ~~shall~~ may grant a claims administrator a delay in reporting all or part of the data required pursuant to this section upon (A) a documented showing that compliance with the applicable reporting deadline would cause undue hardship to the claims administrator, and (B) submission of a plan, prior to the applicable deadline, documenting the means by which the claims administrator will ensure full compliance with the data reporting requirements by a date certain not ~~more than one year from the reporting deadline set forth in this section~~ later than July 1, 2000. Any variance granted by the Administrative Director from the reporting dates specified in this section shall be set forth in writing. ~~*the EDI Trading Partner Profile.*~~ The Administrative

Director may extend the variance until January 1, 2001 following a demonstrated showing that a claims administrator is still unable to comply with the requirements of this section.

(2) "Undue hardship" means that compliance with the applicable reporting deadline would result in significant difficulty or expense for the claims administrator. Undue hardship shall be determined following consideration of (A) the estimated cost of complying with the applicable reporting deadline, (B) the overall financial resources available to the claims administrator, and (C) the feasibility of interim, alternative methods or formats for submitting WCIS data.

(3) A claims administrator which certifies that the data reporting deadline set forth in subdivision (b) cannot be met because a computer system critical to carry out its mission is not yet capable of sending, receiving, or calculating data that contains dates after December 31, 1999 shall be deemed to have shown undue hardship for the purposes of paragraph (1).

(4) A claims administrator granted a variance under Subsection (a)(1) shall submit to the WCIS all data that was required to be submitted under this section during the variance period. The data shall be submitted at the end of the variance period in an electronic format acceptable to the Division.

(b) On and after September 1, 1999 ~~*July 1, 1999*~~, each claims administrator shall submit to the WCIS on each ~~new~~ claim, within five business days of knowledge of the claim, each of the following data elements known to the claims administrator:

DATA ELEMENT NAME	DN
MAINTENANCE TYPE CODE	2
MAINTENANCE TYPE CODE DATE	3
JURISDICTION CODE	4
INSURER~~S~~ FEIN	6
INSURER~~S~~ NAME	7
THIRD PARTY ADMINISTRATOR FEIN (2)	8
THIRD PARTY ADMINISTRATOR NAME (2)	9
CLAIM ADMINISTRATOR MAILING PRIMARY ADDRESS ~~LINE 1~~ (1)	10
CLAIM ADMINISTRATOR MAILING SECONDARY ADDRESS ~~LINE 2~~ (1)	11
CLAIM ADMINISTRATOR MAILING CITY (1)	12
CLAIM ADMINISTRATOR MAILING STATE (1)	13
CLAIM ADMINISTRATOR MAILING POSTAL CODE (1)	14
CLAIM ADMINISTRATOR'S CLAIM NUMBER	15
EMPLOYER FEIN	16
EMPLOYER NAME	18

EMPLOYER PHYSICAL PRIMARY ADDRESS LINE 1 (1)	19
EMPLOYER PHYSICAL SECONDARY ADDRESS LINE 2 (1)	20
EMPLOYER CITY	21
EMPLOYER PHYSICAL STATE (1)	22
EMPLOYER PHYSICAL POSTAL CODE (1)	23
SELF-INSURED INDICATOR (3)	24
DATE OF INJURY	31
ACCIDENT SITE POSTAL CODE (1)	33
NATURE OF INJURY CODE	35
PART OF BODY INJURED CODE	36
CAUSE OF INJURY CODE	37
ACCIDENT/INJURY DESCRIPTION~~/CAUSE~~ NARRATIVE (1)	38
DATE ~~REPORTED TO~~ EMPLOYER HAD KNOWLEDGE OF THE INJURY (1)	40
DATE ~~REPORTED TO~~ CLAIMS ADMINISTRATOR HAD KNOWLEDGE OF THE INJURY (1)	41
EMPLOYEE ~~SOCIAL SECURITY NUMBER~~ SSN (1)	42
EMPLOYEE LAST NAME	43
EMPLOYEE FIRST NAME	44
EMPLOYEE MIDDLE NAME/INITIAL (1)	45
EMPLOYEE MAILING PRIMARY ADDRESS ~~LINE 1~~ (1)	46
EMPLOYEE MAILING SECONDARY ADDRESS ~~LINE 2~~ (1)	47
EMPLOYEE MAILING CITY (1)	48
EMPLOYEE MAILING STATE CODE (1)	49
EMPLOYEE MAILING POSTAL CODE (1)	50
EMPLOYEE PHONE NUMBER (1)	51
EMPLOYEE DATE OF BIRTH	52
EMPLOYEE GENDER CODE (1)	53
EMPLOYEE MARITAL STATUS CODE (1) (4)	54
EMPLOYEE NUMBER OF DEPENDENTS (1) (4)	55
INITIAL DATE DISABILITY BEGAN (1)	56
EMPLOYEE DATE OF DEATH (4)	57
EMPLOYMENT STATUS CODE	58
MANUAL CLASSIFICATION CODE (1) (5)	59
OCCUPATION DESCRIPTION	60
EMPLOYEE DATE OF HIRE (1)	61
AVERAGE WAGE (1)	62
WAGE PERIOD CODE (1)	63
INITIAL DATE LAST DAY WORKED (1)	65
SALARY CONTINUED IN LIEU OF COMPENSATION INDICATOR (1)	67
INITIAL RETURN TO WORK DATE (1)	68
EMPLOYEE ID ASSIGNED BY JURISDICTION (6) (7)	154
EMPLOYEE MAILING COUNTRY CODE ~~(7)~~ (6)	155
INSURED TYPE CODE (6)	184
CLAIM~~S~~ ADMINISTRATOR FEIN ~~(7)~~ (6)	187
CLAIM~~S~~ ADMINISTRATOR NAME ~~(7)~~ (6)	188

RETURN TO WORK TYPE CODE ~~(7)~~ (6)	189
PHYSICAL RESTRICTIONS INDICATOR (6)	224
SELF-INSURANCE LICENSE/CERTIFICATE NUMBER ~~(1)~~ (6)	239
EMPLOYER UI NUMBER ~~(7)~~ (6)	329
ICD-9 CM DIAGNOSIS CODE ~~(7)~~ (6)	522

(1) Release 1 data element name differs

~~(2) For Release 1 only; for Release 2 substitute DN 187 (CLAIMS ADMINISTRATOR FEIN) & 188 (CLAIMS ADMINISTRATOR NAME).~~

(2) ~~*For claims administered by a third party administrator only; optional after July 1, 2000*~~. Release 1 only; not required after July 1, 2000.

(3) For Release 1 only; for Release 2 substitute DN ~~239~~ 184, INSURED TYPE CODE

(4) Death Cases Only

(5) Required for Insured Claims Only; optional for self-insured claims.

~~*(6) For Release 2 only; for Release 1 substitute DN 24*~~

~~*(7) Optional until July 1, 2000*~~

(6) For Release 2 only; optional until July 1, 2000.

(7) Applicable only to employees for whom the employer is not required to collect and maintain the employee's Social Security Number.

Data elements omitted under this subsection because they were not known by the claims administrator shall be submitted within sixty (60) days from the date of the first report under this subsection.

(c) Each transmission of data elements listed under (d), (e), (f) or (g) of this section shall also include the following elements for data linkage:

DATA ELEMENT NAME	DN
MAINTENANCE TYPE CODE	2
MAINTENANCE TYPE CODE DATE	3
JURISDICTION CLAIM NUMBER (1) (2)	5
CLAIMS ADMINISTRATOR CLAIM NUMBER (2)	15
DATE OF INJURY (2)	31
EMPLOYEE SSN (2)	42

(1) This number will be provided by WCIS upon receipt of the first report.

(2) The Date of Injury (DN 31) and Employee SSN (DN 42) need not be submitted if the Jurisdiction~~*al*~~ Claim Number (DN 5) and Claims Administrator Claim Number (DN 15) accompany ~~*accompanies*~~ the transmission.

(d) On and after July 1, 2000, each claims administrator shall submit to the WCIS within ten business days ~~weekly *on a biweekly basis,* or at an interval specified in the trading partner agreement *or at an interval specified in the EDI Trading Partner Profile, new instances of each of*~~ the following data elements, ~~*for each new claim with a date of injury on or after July 1, 2000:*~~ whenever indemnity benefits of a particular type and amount are started, changed, suspended, restarted, stopped, delayed, or denied, or when a claim is closed or reopened, or when the claims administrator is notified of a change in employee representation. Submissions under this subsection are required only for claims with a date of injury on or after July 1, 2000, and shall not include data on routine payments made during the course of an uninterrupted period of indemnity benefits.

DATA ELEMENT NAME	DN
EMPLOYMENT STATUS CODE	58
AVERAGE WAGE (1)	62
WAGE PERIOD CODE	63
INITIAL RETURN TO WORK DATE (1)	68
DATE OF MAXIMUM MEDICAL IMPROVEMENT	70
CURRENT RETURN TO WORK DATE	72
CLAIM STATUS CODE (1)	73
DATE CLAIM ADMINISTRATOR NOTIFIED OF EMPLOYEE REPRESENTATION (1)	76
LATE REASON CODE	77
PERMANENT IMPAIRMENT BODY PART CODE (2)	83
PERMANENT IMPAIRMENT PERCENTAGE	84
BENEFIT TYPE CODE (1)	85
BENEFIT TYPE AMOUNT PAID (1)	86
BENEFIT PERIOD START DATE (1)	88
BENEFIT PERIOD THROUGH DATE (1)	89
BENEFIT ADJUSTMENT CODE	92
BENEFIT ADJUSTMENT WEEKLY AMOUNT (1)	93
BENEFIT ADJUSTMENT START DATE	94
BENEFIT ADJUSTMENT ~~STOP~~ END DATE	125
BENEFIT CREDIT CODE	126
BENEFIT CREDIT START DATE	127
BENEFIT CREDIT ~~STOP~~ END DATE	128
BENEFIT CREDIT WEEKLY AMOUNT	129
CURRENT DATE DISABILITY BEGAN	144
CURRENT DATE LAST DAY WORKED	145
DEATH RESULT OF INJURY INDICATOR	146
DENIAL REASON CODE	173
GROSS WEEKLY AMOUNT	174
RETURN TO WORK TYPE CODE	189
PAYMENT ISSUE DATE ~~(2)~~	195
OTHER BENEFIT TYPE AMOUNT ~~PAID~~ (3)	215
OTHER BENEFIT TYPE CODE (3)	216

PAYMENT AMOUNT	218
PAYMENT REASON CODE	222
PHYSICAL RESTRICTIONS INDICATOR	224
DENIAL EFFECTIVE DATE	240
RETURNED TO WORK WITH SAME EMPLOYER INDICATOR	228
SETTLEMENT TYPE CODE	241

(1) Release 1 data element name differs.

~~*(2) Only the date on which the first benefit payment is issued in each specific benefit category; subsequent payment issue dates need not be reported.*~~

(2) Use Code 90 (Multiple Body Parts) to reflect combined rating for any/all impairments.

(3) Only for Other Benefit Type Codes 310 (Total Penalties) and 321 (Total Employee Interest).

(e) On and after July 1, 2000, each claims administrator shall submit to the WCIS ~~*quarterly*~~ within ninety (90) days from the end of each calendar quarter, ~~*or at an interval specified in the EDI Trading Partner Profile trading partner agreement*~~, the following data elements for all medical services for which the claims administrator has received notice of services rendered during the calendar quarter for (1) each ~~new~~ claim with a date of injury on or after July 1, 2000 and occurring on the 12th day of each month, (2) each ~~new~~ claim, with a date of injury occurring on or after July 1, 2000, involving inpatient hospitalization (data elements must be submitted only for medical services with service dates on or after the first day of hospitalization), and (3) additional claims selected ~~for survey of particular issues~~ using criteria based solely on data elements submitted under Section 9702 (b) or (d) and communicated to claims administrators at least six months prior to the required submission:

DATA ELEMENT NAME	DN
PROVIDER AGREEMENT CODE	507
SERVICE(S) BILL(S)DATE RANGE	509
ADMISSION DATE	513
DISCHARGE DATE	514
TOTAL AMOUNT PAID PER BILL	516
ICD-9 CM DIAGNOSIS CODE	522
~~*PROVIDER ENTITY IDENTIFIER CODE (1)*~~	~~*526*~~
~~*PROVIDER INDIVIDUAL/GROUP INDICATOR*~~	~~*527*~~
BILLING PROVIDER LAST/GROUP NAME	528
BILLING PROVIDER FIRST NAME ~~*FIRST*~~	529
~~*PROVIDER ID QUALIFIER CODE (2)(3)*~~	~~*532*~~
~~*PROVIDER ID (2)(3)*~~	~~*533*~~
BILLING PROVIDER FEIN	629
~~*PROVIDER*~~ GATEKEEPER INDICATOR	534
~~*PROVIDER CREDENTIAL CODE*~~	~~*536*~~
BILLING PROVIDER PRIMARY SPECIALTY CODE	537
BILLING PROVIDER NATIONAL PROVIDER ID (1)	634

PLACE OF SERVICE BILL CODE	555
PLACE OF SERVICE LINE CODE	600
TOTAL AMOUNT PAID PER LINE	574
~~*TREATMENT CODE, CPT LINE ITEM PROCEDURE PAID CODE*~~	~~*575*~~
CONTRACT TYPE CODE	515
HCPCS PROCEDURE PAID CODE (2)	726
HCPCS MODIFIER PAID CODE (3)	727
JURISDICTION PROCEDURE PAID CODE (4)	729
MANAGED CARE ORGANIZATION FEIN (5)	704
MANAGED CARE ORGANIZATION NAME (5)	209
RENDERING LINE PROVIDER FEIN	586
RENDERING LINE PROVIDER LAST/GROUP NAME	589
RENDERING LINE PROVIDER FIRST NAME	587
RENDERING LINE PROVIDER NATIONAL PROVIDER ID (1)	592
RENDERING LINE PROVIDER STATE LICENSE NUMBER	599
RENDERING LINE PROVIDER PRIMARY SPECIALTY CODE	595
~~*(1) Has value of 85 = BILLING PROVIDER*~~ ~~*(2) Has value of FI = FEIN*~~ ~~*(3) For HCO patients, HCO certification number must be submitted as a second PROVIDER ID (DN 533). The second PROVIDER ID must be qualified with the IAIABC PROVIDER ID QUALIFIER CODE (DN 532) for MANAGED CARE ORGANIZATION.*~~ (1) To be provided following the assignment of a National Provider Identifier by the United States Department of Health and Human Services, Health Care Financing Administration ("HCFA"). (2) Use HCPCS Level I codes, which are equivalent to the Current Procedural Terminology (CPT) codes published by the American Medical Association. (3) Use when a modifier has been provided. (4) The codes for this data element are the codes unique to California that are set forth in the California Official Medical Fee Schedule, a publication of the State of California, Department of Industrial Relations (adopted pursuant to Labor Code § 5307.1 and Title 8, California Code of Regulations § 9790 et seq.). (5) For HCO claims use HCO names in DN 209 and the FEIN of the sponsoring organization in DN 704.	

(f) Notwithstanding the requirement in Subsection (b) to submit data elements omitted from the first report within 60 days from the date of transmission of the first report, w~~W~~hen a claims administrator becomes aware of an error or need to update data elements previously transmitted, or learns of information that was previously omitted, the claims administrator shall transmit the corrected, updated or omitted data to WCIS no later than the next submission of data ~~*to WCIS*~~ for the affected claim.

(g) No later than January 31 of every year, commencing in 2001, claims administrators shall, for each claim with ~~any activity~~ any payment in any benefit category, including medical, in the previous calendar year, report the total paid in each

payment category through ~~for~~ the previous calendar year by submitting the following data elements:

DATA ELEMENT NAME	DN
BENEFIT TYPE CODE	85
BENEFIT TYPE AMOUNT PAID	86
OTHER BENEFIT TYPE AMOUNT PAID	215
OTHER BENEFIT TYPE CODE	216

(h) The submission of the data elements as provided in this section, upon determination by the Administrative Director that the claims administrator has demonstrated the capability to submit complete, valid, and accurate data, satisfies a claims administrator's obligation (1) under Labor Code section 138.4 to submit copies of benefit notices to the ~~a~~Administrative ~~d~~Director, and (2) ~~upon~~ pursuant to a written agreement between the ~~a~~Administrative ~~d~~Director and the Chief of the Division of Labor Statistics and Research, to submit ~~to the state~~ employer and physician first reports of injury pursuant to Labor Code sections 6409 and 6409.1.

(i) The data submitted pursuant to this section shall not have any application to, nor be considered in, nor be admissible into, evidence in any personal injury or wrongful death action, except as between an employee and the employee's employer. Nothing in this subdivision shall be construed to expand access to information held in the WCIS beyond that authorized in section 9703 and Labor Code section 138.7.

(j) Each claims administrator required to submit data under this section shall submit to the Administrative Director an EDI Trading Partner Profile at least thirty days prior to its first transmission of EDI data. Each claims administrator shall advise the Administrative Director of any subsequent changes and/or corrections made to the information provided in the EDI Trading Partner Profile. ~~Each claims administrator shall obtain from the International Association of Industrial Accident Boards and Commissions an end user agreement for use of copyrighted source material and shall pay all applicable licensing fees.~~

Authority: Sections 133, 138.4, 138.6, 138.7 and 5307.3, Labor Code.
Reference: Section 138.4, 138.6, 138.7, 6304.5, Labor Code.

9703. Access To Individually Identifiable Information

(a) No person shall have access to individually identifiable data held in the WCIS except as provided in this section and subdivision (c) of section 138.7 of the Labor Code.

(b) The Division of Workers' Compensation may obtain and use individually identifiable information for the following purposes:

(1) To create and maintain the WCIS, including the selection of claims to survey in order to obtain information not available from the data elements provided by claims administrators.
(2) To help select claims administrators for audits under section 129 of the Labor Code.
(3) To report the promptness with which claims administrators make payments.
(4) To electronically import names, addresses, and other information into Division of Workers' Compensation case~~s~~ files which would otherwise have to be key entered by agency staff.

(c) The following agencies may obtain individually ~~identified~~ identifiable information from the WCIS, in the manner set forth in a memorandum of understanding between the Administrative Director and the agency, for the purposes specified:

(1) The Division of Occupational Safety and Health may use individually ~~identified~~ identifiable information to help select employers for health and safety consultations and inspections.
(2) The Division of Labor Statistics and Research may use individually identifiable information to carry out its research and reporting responsibilities under Labor Code sections 150 and 156.
(3) The Department of Health Services may use individually identifiable information to carry out its occupational health and occupational disease prevention responsibilities under section 105175 of the Health and Safety Code.

(d) Individually identifiable information may be provided to other persons or public or private entities for the purpose of bona fide statistical research which does not divulge individually identifiable information concerning any employee, employer, claims administrator, or any other person or entity~~-~~. Any request for individually identifiable information for this purpose shall include the identity of the requester, the purpose of the research, the methods of research, and the need for individually identifiable WCIS data. The requester shall demonstrate approval by an Institutional Review Board under ~~Part 26, Subpart A of~~ Title 45, Code of Federal Regulations, Part 46, Subpart A. Any agreement to permit use of the data shall be in writing between the requester and the Administrative Director. Note: The Division shall make available upon request a list of Institutional Review Boards known to the Division that have the authority to grant the

required approval and that expressed willingness to review research proposals under this section.

(e) Each agreement or memorandum of understanding entered concerning the use of individually identifiable information by any agency, entity, or person shall specify the methods to be used to protect the information from unlawful disclosure, and shall include a warning to the receiving party that it is unlawful for any person who has received individually identifiable information from the Division of Workers' Compensation under this section to provide the information to any person who is not entitled to it under the law.

(f) Nothing in this section shall be construed to exempt from disclosure any public record contained in an individual's file once an ~~a~~Application for ~~a~~Adjudication has been filed with the Workers' Compensation Appeals Board. This includes any data from an individual's file that is converted to or stored in an electronic format for the purpose of case processing and tracking.

(g) Nothing in this section shall be construed to exempt from disclosure WCIS data in a format that does not contain individually identifiable information.

Authority: Sections 127, 133, 138.4, 138.6, 138.7, and 5307.3, Labor Code.
Reference: Sections 129, 138.4, 138.6, 138.7, 150, 156, 6314.1, 6354, Labor Code; Section 105175, Health and Safety Code.

9704. WCIS Advisory Committee

(a) The Administrative Director shall maintain a Workers' Compensation Information System Advisory Committee, which shall include, but not be limited to, representatives of claims administrators (including self-insured employers, insurers, and third party administrators), insured employers, organized labor, attorneys, physicians as defined in Labor Code § 3209.3, vocational rehabilitation counselors, academic researchers, the Department of Insurance statistical agent, and appropriate legislative committees and state agencies with jurisdiction over workers' compensation, ~~and~~ occupational health, and related areas, including the Commission on Health and Safety and Workers' Compensation and the Employment Development Department.

(b) The advisory committee shall meet at least annually on the call of the Administrative Director, and may provide advice on all aspects of WCIS. The Administrative Director, or his or her designee, shall present to the advisory committee

any plan to collect survey data, including any expanded collection of the data elements specified in subdivision (d) of section 9702.

Authority: Sections 133, 138.6, 138.7 and 5307.3, Labor Code.
Reference: Section 138.6, Labor Code.